

SUPPORT FOR THE AMENDMENTS

Claims 1, 3, 5, 6, 9, and 10 have been amended.

Claims 7, 8, 11, and 12 have been canceled.

Claims 13-16 have been added.

The amendment of Claims 1, 3, 5, 6, 9, and 10 is supported by original Claims 1 and 3, as well as the specification at, for example, page 3, lines 2-6, page 5, lines 8-13, page 6, line 17 to page 7, line 18, and the Examples.

No new matter has been entered by the present amendment.

REMARKS

Claims 1-6, 9, 10, and 13-16 are pending in the present application.

The rejection of Claims 1 and 3 under 35 U.S.C. §102(b) over Scherer et al is obviated in part by amendment and traversed in part.

The Examiner cites Scherer et al and alleges that it discloses a sequence (SEQ ID NO: 7) that is identical to the sequence of SEQ ID NO: 2. Therefore, to the extent that Claims 1 and 3 read on the full-length adiponectin of SEQ ID NO: 2, the Examiner alleges that Scherer et al anticipate the claimed invention. However, Scherer et al do not disclose or suggest the C-terminal globular domain of adiponectin (Claims 1 and 3), much less the specific C-terminal globular domain of adiponectin encompassing amino acid residues 114 to 239 or 111 to 242 appearing in Claims 13-16.

It is true that Scherer et al disclose “portions” of Acrp30 that have the same function or activity of the full-length protein (see page 8, line 30 to page 9, line 15). However, this disclosure is extremely vague and would not put the skilled artisan in possession of the C-terminal globular domain of adiponectin as presently claimed. Therefore, Scherer et al fail to anticipate the claimed invention.

Therefore, withdrawal of this ground of rejection is requested.

Finally, Applicants respectfully request that the obviousness-type double patenting rejections of Claims 1 and 3 over Claims 1-13 of co-pending application No. 10/514,715 be held in abeyance until an indication of allowable subject matter in the present application. If necessary, a terminal disclaimer will be filed at that time. Until such a time, Applicants make no statement with respect to the propriety of this ground of rejection.

However, the Examiner is reminded that MPEP §804 indicates that: "If "provisional" ODP rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer." The present application is the earlier filed application and, therefore, if this application is in condition for allowance prior to US 10/514,715, the obviousness-type double patenting rejection should be withdrawn.

Applicants submit that the present application is in condition for allowance. Early notification to this effect is respectfully requested.

Respectfully submitted,

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